

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

MARTIN OSEGUERA-CHAVEZ,

Petitioner,

V.

UNITED STATES OF AMERICA,

Respondent.

CASE NO. C12-5716 RJB

CR 09-5452 RJB

ORDER GRANTING MOTION TO
WITHDRAW A COUNSEL FOR
PETITIONER

This matter comes before the Court on Motion to Withdraw as Counsel for Petitioner.

The Court has considered the motion and the record herein.

INTRODUCTION AND BACKGROUND

On August 10, 2012, Petitioner Martin Oseguera-Chavez filed a pro se Motion to Vacate, Set Aside, or Correct Sentence pursuant to 28 U.S.C. 2255. Dkt. 1. Petitioner also filed a Motion for equitable tolling of time with regards to filing a supplemental brief in connection with his 28 U.S.C. § 2255 motion. Dkt. 2. On September 14, 2012, the United States responded, agreeing to petitioner's request for additional time, and asking that the court consider assigning a

1 lawyer to represent petitioner so that discovery can safely be provided to him in a manner that
2 will assist with the adjudication of the Section 2255 motion. Dkt. 5.

3 On September 18, 2012, this Court granted Petitioner's request for additional time to file
4 a supplemental brief. Dkt. 6. In consideration of Respondent's concerns regarding discovery,
5 the Court ordered that counsel be appointed to represent Petitioner pursuant to 18 U.S.C. §
6 3006A. *Id.*

7 On December 8, 2012, appointed counsel filed the instant motion to withdraw and to
8 extend the time for filing of a supplemental brief. Dkt. 8. By Minute Order, this Court granted
9 an extension of time to file a supplemental brief to March 18, 2013. Dkt. 12.

10 Appointed counsel has filed an ex parte sealed declaration that establishes good cause for
11 withdrawal from representation. Dkt. 10.

12 **WITHDRAW OF COUNSEL**

13 Rule 6(a) of the Rules Governing Section 2255 Proceedings for the United States District
14 Court provides as follows:

15 (a) Leave of Court Required. A judge may, for good cause, authorize a party to conduct
16 discovery under the Federal Rules of Criminal Procedure or Civil Procedure, or in
17 accordance with the practices and principles of law. If necessary for effective discovery,
18 the judge must appoint an attorney for a moving party who qualifies to have counsel
19 appointed under 18 U.S.C. § 3006A.

20 Petitioner has not shown "good cause" to conduct discovery. The appointment of
21 counsel is not necessary for effective discovery. See Rule 6(a). At this stage of the proceedings,
22 the interests of justice do not warrant the appointment of counsel to pursue this habeas petition.

23 See 18 U.S.C. § 3006A(a)(2).

24 Appointed counsel should be permitted to withdraw. Petitioner may proceed pro se with
25 his 28 U.S.C 2255 motion and file a supplemental brief no later than March 18, 2012.

CONCLUSION

Therefore, it is hereby **ORDERED**:

1. The Motion to Withdraw as Counsel for Petitioner Oseguera-Chavez (Dkt. 8) is **GRANTED**.
2. Petitioner may file a pro se supplemental brief in support of his 28 U.S.C. § 2255 motion no later than March 18, 2013.
3. The Clerk is directed to send uncertified copies of this Order to all counsel of record and to any party appearing *pro se* at said party's last known address.

Dated this 3rd day of January, 2013.

Robert Bryan

ROBERT J. BRYAN
United States District Judge